

Message Text

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ACTION NEA-10

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R 210552Z JAN 78
FM AMEMBASSY NEW DELHI
TO SECSTATE WASHDC 8877
INFO AMCONSUL BOMBAY
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AMCONSUL MADRAS
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AMEMBASSY DACCA
AMEMBASSY ISLAMABAD
AMEMBASSY KABUL
AMEMBASSY KATHMANDU
CINCPAC

UNCLAS NEW DELHI 1114

CINCPAC FOR POLAD

E.O. 11652: N/A
TAGS: PINT, IN
SUBJECT: MRS. GANDHI SUMMONED TO APPEAR IN COURT FOR DEFYING
SHAH COMMISSION

REF: NEW DELHI 578

1. AS A RESULT OF HER REFUSAL TO TESTIFY BEFORE THE SHAH COM-
MISSION OF INQUIRY ON JANUARY 11 (REFTEL), MRS. GANDHI IS TO
BE SUMMONED BEFORE THE DELHI CHIEF METROPOLITAN MAGISTRATE ON
FEBRUARY 9 ON CHARGES FILED UNDER THE INDIAN PENAL CODE. THE
COMPLAINT FILED BY COUNSEL FOR THE SHAH COMMISSION WITH THE
MAGISTRATE ON JANUARY 20 STATED THAT MRS. GANDHI HAD COMMITTED
AN OFFENSE UNDER SECTION 178 OF THE IPC FOR REFUSING TO TAKE AN
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OATH BEFORE THE COMMISSION AS WELL AS UNDER SECTION 179 OF
THE IPC FOR REFUSING TO TESTIFY BEFORE THE COMMISSION. MAXIMUM
PENALTY UNDER BOTH SECTIONS IS SIX MONTHS IMPRISONMENT OR A
FINE OF ONE THOUSAND RUPEES OR BOTH. IN ACCEPTING THE CASE, THE
MAGISTRATE OBSERVED THAT A PRIMA FACIE OFFENSE HAD BEEN
COMMITTED AND ORDERED THAT MRS. GANDHI APPEAR IN PERSON BEFORE
HIM IN COURT ON FEBRUARY 9. A CASE WAS ALSO REGISTERED

AGAINST PRANAB KUMAR MUKHERJEE, FORMER MINISTER OF REVENUE AND BANKING IN MRS. GANDHI'S GOVERNMENT, ON SIMILAR GROUNDS OF DEFYING THE SHAH COMMISSION. HE HAS BEEN SUMMONED TO APPEAR IN COURT AT THE SAME TIME.

2. MRS. GANDHI'S JANUARY 9-11 APPEARANCE BEFORE THE SHAH COMMISSION WAS IN CONNECTION WITH HER ROLE IN ELEVEN CASES OF ALLEGED ABUSE OF POWER COMMITTED BEFORE AND DURING THE EMERGENCY. THESE CASES INVOLVE SUCH IRREGULARITIES AS TRANSFER OF HIGH COURT JUDGES, PROSECUTION OF FOUR OFFICIALS COLLECTING INFORMATION ON MARUTI AND THE REQUISITIONING OF A BUILDING IN DELHI UNDER THE DEFENSE OF INDIA RULES. MRS. GANDHI WAS AGAIN SUMMONED TO APPEAR BEFORE THE SHAH COMMISSION ON JANUARY 19 TO TESTIFY ON THE EVENTS OF JUNE 1975 LEADING UP TO THE DECLARATION OF THE EMERGENCY. ON THAT OCCASION, SHE AGAIN REFUSED TO MAKE A STATEMENT AND JUSTICE SHAH DIRECTED THAT ANOTHER CASE BE FILED AGAINST HER BEFORE THE CHIEF METROPOLITAN MAGISTRATE UNDER SECTIONS 178 AND 179 OF THE IPC. ACCORDING TO PRESS ACCOUNTS, THIS SECOND CASE WILL BE REGISTERED IN THE COURT SHORTLY.
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